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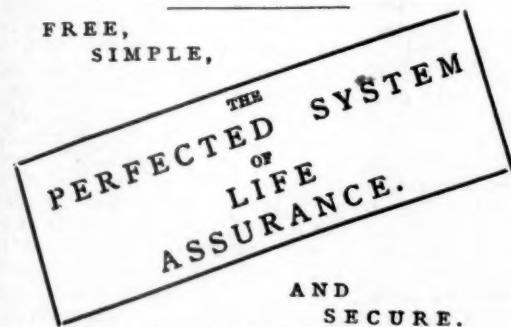
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Current Topics.

The New County Court Judge.

MR. THOMAS GILBERT CARVER, K.C., has been appointed Judge of County Courts on Circuit 12, in the place of his Honour Judge CADMAN, deceased. MR. CARVER was called to the bar in 1873, and for many years practised at Liverpool.

Charging Order for Costs in Debenture-holders' Actions.

THE DECISION of FARWELL, J., in *Re W. C. Horne & Sons (Limited)* (1906, 1 Ch. 271) is of importance with respect to the recovery by the solicitor for the plaintiff in a debenture-holder's action of the difference between his party and party and solicitor and client costs. Where the assets recovered in the action are insufficient to pay off the debentures, then the plaintiff is allowed to charge against them his solicitor and client costs: *Re New Zealand Midland Railway Co.* (49 W.R. 529; 1901, 2 Ch. 375); though if there is surplus left for the company or for subsequent debenture-holders, the rule is different, and he is now only allowed his party and party costs: *Re Queen's Hotel, Cardiff (Limited)* (48 W.R. 567; 1901, 1 Ch. 792). The reason for this apparently anomalous result is that, in the first case, the interest of the company has not to be considered. The taxation is against a fund which belongs solely to the debenture-holders, and the plaintiff is, as regards them, entitled to be indemnified against all costs. But in the second case, the taxation is against the company, and it must accordingly be a party and party taxation. In *Harrison v. Cornwall Minerals Railway Co.* (32 W.R. 748) it was sought to escape from this result by claiming for the solicitors under section 28 of the Solicitors Act, 1860, a charging order for the difference between solicitor and client and party and party costs on the property recovered by them, but KAY, J., declined to make the order, upon the ground that the solicitors would be able to get their costs from their clients. They were able to pay, and, of course, they were liable to the solicitors. The Act, he said, was meant solely for the benefit of solicitors, and not for that of their clients, though he intimated that if there was the least danger of the solicitors not getting their costs, he would not hesitate to make the order. In the present case of

In Re W. C. Horne & Sons (Limited) it appeared that the plaintiff in the debenture-holder's action was not in a position to pay the excess costs, and hence FARWELL, J., acted upon the principle suggested by the judgment of KAY, J., and gave the solicitor a charging-order for them upon so much of the fund in court as had been allotted to the debenture-holders.

Stealing Lead Roofing.

IT IS REPORTED in the daily press that at the Shrewsbury Quarter Sessions a prisoner, indicted for stealing lead from the roof of the verandah of a freehold dwelling-house, was discharged by order of the recorder. The point taken by the recorder was that the lead, having been attached to the roof of the verandah, became part of the freehold; as freehold it was land, and could not be stolen. If this report is accurate, which we rather doubt, we confess we are unable to follow the reason for the decision. At common law there is no doubt that larceny could not be committed of things which were attached to land, and we have the authority of HALE for including among these things the lead of a house: 1 P. C. 510. But where the property is severed, and removed after an interval, then it is larceny, unless the acts of severance and removal are so inseparable that they must be considered as one continued act. And so if the severance be effected by one person, and the removal by another, even instantly after the severance. This is the common law on the subject. But by section 31 of the Larceny Act, 1861, it is provided that "whoever shall steal, or shall rip, cut, sever, or break, with intent to steal, any . . . lead . . . or other metal, fixed in or to any building whatsoever . . . shall be guilty of felony, and being convicted thereof shall be liable to be punished as in the case of simple larceny." There may, of course, have been some other consideration operating upon the mind of the recorder, the details of which are not given in the newspaper. But, in the absence of any such consideration, we should have thought the terms of the Larceny Act would be sufficiently comprehensive. Moreover, even if the prisoner was indicted for an offence at common law, instead of under the statute, the form of the indictment would only differ by the omission of the words "against the form of the statute in such case made and provided," and these words are expressly rendered unnecessary by the statute 14 & 15 Vict. c. 100, s. 24. In any event, on the facts as stated, we should not advise prisoners to rely on this case as a precedent.

A New Form of Negligence.

THERE is no limit to the number of forms which negligence is capable of assuming, and no doubt our courts will yet have to consider forms of negligence which are at present unimaginable. This week, in the case of *Millins v. Garratt*, a Divisional Court were asked to decide whether it is negligence to allow a dog, known to be blind, to be at large on a highway. This poor beast had upset the plaintiff from off his bicycle, and his owner was sued for damages for personal injuries caused by the fall. A county court judge decided in favour of the plaintiff, but the High Court reversed the decision on the ground that there was no evidence of negligence. With all respect, we submit that the opinion of the lower court was the sounder. It is not usual for dogs to bite, and, therefore, if a dog of normal disposition is allowed to be at large, and does so far forget himself as to bite a passer-by, his master is not liable. But if the dog is of a peculiarly vicious disposition, and is known by his master to be likely to bite, then the master will be liable if he does bite. This is undoubtedly the law, and it seems to depend on the principle that the owner of the dog is not liable if he is not aware of any peculiarity in the dog which makes him dangerous, while, on the other hand, he is liable if he is aware of such peculiarity and the dog does the damage which may be expected from the existence of the peculiarity. Now, it seems almost obvious that a blind dog must be a source of danger, both to himself and to many of the public, if he is allowed on a busy highway without guidance or control. If he is frightened, he will probably rush along without any sense of direction, and may knock down old persons or children or persons on bicycles and cause serious injuries. If this view is right, it seems that to allow a blind dog to be at large on the highway is

negligence, when the owner knows of the animal's blindness. There does not appear to be any former decision exactly in point. One of the nearest is *Jones v. Owen* (24 L. T. 587), where it was held to be negligence to allow a couple of dogs to run on the highway fastened together. They had done damage by rushing along and throwing down a man by going on each side of him and catching him with the coupling chain. Here the dogs were quite harmless in disposition, but were allowed to be abroad in a condition which might cause damage. What made them dangerous, however, was a deliberate act of their master. In fact, it was not the dogs which were dangerous, but the dogs plus the chain. This makes a distinction between the cases, but there seems little difference in principle. In each case the negligence consists in allowing the animals to be on the highway in a condition which is likely to cause damage. If an animal is in such condition, whether by the act of his owner or otherwise, he ought to be kept at home; and to allow him to be at large is (we submit) negligence.

Receivers for Debenture-holders.

WE DISCUSSED recently (*ante*, p. 92), in connection with the decision of the Court of Appeal in *Re Glasdir Copper Mines (Limited)* (22 Times L. R. 100), the right of a receiver in a debenture-holders' action to be paid his expenses in priority to the debenture-holders. It was there held that *prima facie* a receiver was entitled to be indemnified out of the assets before the debenture-holders took anything, though of course the receiver could postpone the right in favour of a debenture-holder advancing money for carrying on the business, if such was the true effect of the contract between them. In the recent case of *Re British Power Traction Co. (Limited)* (*ante*, p. 257) the question arose as to the position of a receiver who obtains an order from the court authorizing him to borrow up to a certain limit for the general purposes of the company, and then borrows in excess of the limit. *Prima facie* it might seem that the excess would be without authority altogether, and that, in respect of it, the receiver would have no right of indemnity against the assets of the company. But WARRINGTON, J., held that the express authority to borrow did not necessarily deprive the receiver of his power to borrow money without recourse to the court. Expenses and liabilities *bond fide* incurred in the ordinary business of the company will, *prima facie*, be treated as having been properly incurred. When the receiver obtains an express order to borrow money his position in regard to further borrowing is such as to throw the onus of justifying it upon himself. The order is intended to limit his general authority, and if he finds that the sum provided by the court is not sufficient, it is his duty to come to the court for further authority. If he incurs further liabilities without doing so, he is not entitled to be indemnified against them unless he can shew that, having regard to all the circumstances, he was justified in incurring them without obtaining leave. In the present case the order authorized borrowing up to £3,000. The receiver obtained this and £1,500 further from his bank. He incurred £4,500 of liabilities in addition. The learned judge referred it to the registrar to ascertain in each particular case whether the circumstances were such as to justify the receiver in incurring liability without leave. Obviously this is a very unsatisfactory position for a receiver or those who claim the benefit of his right of indemnity, to be in, and the sanction of the court should, wherever possible, be obtained beforehand.

Interrogatory Asking the Names of Persons on Whose Information a Libel was Published.

THE CASE of *Plymouth Mutual Co-operative and Industrial Society v. Traders Publishing Association*, heard on the 6th of February, is an interesting decision by the Court of Appeal on the right to administer, and the sufficiency of the answer to, particular interrogatories. The Common Law Procedure Acts gave the power to administer interrogatories in common law actions, intending, no doubt, that the power should be controlled by the judges and sparingly exercised. But this intention was disregarded; the delivery of interrogatories became a regular step in the proceedings, and was attended with so much expense and inconvenience that the judges began to adopt rules of practice

by which the right to administer interrogatories in certain circumstances was curtailed. In the first place, the interrogatories must be relevant—that is, the party putting them must satisfy the judge that they are relevant, for it must be remembered that the Legislature did not mean that there should be a preliminary trial of the case on paper in the absence of a jury. But supposing that the interrogatories appear to be relevant, why should not the plaintiff be allowed to put the same questions on paper which he would be allowed to put *vivæ voce* at the trial? We can only say that the law does not allow him this liberty; the reason for the law is not always clear. In some cases the reason given for disallowing a particular interrogatory is that it is "fishing"; that the plaintiff has not decided upon his cause of action and is putting roving questions in the hope of getting some answer upon which he may found a claim. Another objection is that the interrogatory is oppressive. The term "oppressive" is rather vague. To ask the defendant in an action for negligence whether a particular carriage belonged to him, and whether the driver was his servant, may possibly be regarded as "oppressive" by the defendant, for the answer may serve to establish his liability, but the questions are clearly admissible. What is meant is, that the interrogatory must be such that to compel the party interrogated to answer it would be oppressive. The interrogatory disallowed in *Plymouth Mutual Co-operative and Industrial Society v. Traders Publishing Association* is an example. In an action for libel in a trade periodical the defence being that, so far as the words complained of consisted of expressions of opinion, they were fair comment, made in good faith and without malice, on a matter of public interest, the plaintiffs administered to the defendants, amongst others, an interrogatory substantially as follows: "From whom did you obtain the information on which you relied in publishing the said expressions of opinion?" It would be difficult to say that this interrogatory was not relevant, but the Court of Appeal held, in the absence of special circumstances, that it was inadmissible, as it might be put for purposes outside the action—for instance, for the purpose of bringing another action against some other person than the party interrogated. This decision is one of some importance, as it strongly affirms the practice of common law judges, who in actions of libel have refused to compel the defendant to disclose the information on which the libel was published.

Right of Retainer.

WHEN A sole trustee dies indebted to the trust estate, his personal representative is in a position to assist the beneficiaries by the exercise of his right of retainer, provided he chooses to accept the trusts; but the decision of the Court of Appeal in *Re Bennett* (54 W. R. 237; 1906, 1 Ch. 216) shews that he cannot be compelled to exercise this right at the instance of the beneficiaries. If he does accept the trusts, then as the existing trustee he is a creditor of the estate of his testator for the amount due to the trust estate. Being also personal representative he cannot sue himself, and hence the right of retainer arises. But this depends upon his acceptance of the trusts, and an executor by taking out probate of a trustee's will does not necessarily accept the trusts under which his testator was a trustee. In *Legg v. Mackrell* (2 D. F. & J. 551) CAMPBELL, L.C., held that the executor of a deceased sole trustee had a perfect right to decline acting in the trusts, and where he does so decline, then the right of retainer does not arise. It was urged in *Re Bennett* that, since the money which could be retained would be affected by the trusts, the beneficiaries were entitled to intervene and require the right to be exercised, and this view appears to have prevailed in *Fox v. Garrett* (28 Beav. 16). But in that case both estates—that in favour of which the right was to be exercised and that against which it was to be exercised—were being administered by the court, and it has been suggested that this circumstance influenced the result. Upon principle, however, it was immaterial, and *Fox v. Garrett* is to be taken as overruled. The right of retainer is, as VAUGHAN WILLIAMS, L.J., pointed out in *Re Bennett* (*suprd*), a legal right arising from the fact that the executor cannot sue himself. "It is a personal privilege of his own which was given to him because the acceptance of the

office of legal personal representative put him in a position which was disadvantageous as compared with other creditors of the deceased." But he does not require to avail himself of this privilege unless he has first, by accepting the trusts, become the creditor of his testator's estate. After he has done so, and exercised the right of retainer, the proceeds are held for the beneficiaries. But this is only a consequence of the position which has been assumed by the executor, and if, as he is entitled to do, he declines to assume that position and to accept the trusts under which his testator was trustee, he cannot be required to do so. A similar result was arrived at by Joyce, J., in the recent case of *Re Ridley* (1904, 2 Ch. 774), and his decision there has been approved by the Court of Appeal in the present case of *Re Bennett*.

"Is a Woman a Person?"

WE READ that the judges of the Supreme Court of New Brunswick have rejected the application of a lady to be admitted as a solicitor of the court on the ground that a woman cannot be brought within the meaning of the term "person" in the statutes which contain the law upon the subject. It is added that, soon after this decision, a woman charged under the bye-laws in the St. John's police-court with habitual drunkenness took the objection that women were not included in the term "persons" in the bye-laws, and that the magistrate upheld the objection. We have strong doubt as to the accuracy of this report so far as it relates to the decision in the police-court. It is well known that the same expression may be held to have different meanings in different statutes according to the nature of the subject-matter or the context. Examples of this interpretation could easily be collected from the reports. The English courts have held that, in a highway Act imposing tolls, the expression "carriage" did not include a bicycle, and that, under another Act imposing penalties for furiously driving, bicycles were included under the same term and could not escape liability. Having regard to these decisions, it may confidently be said that the meaning of the term "person" is elastic and ought to be adjusted according to the circumstances of the case. The Parliamentary draftsman has found the shortest way out of the difficulty in an interpretation clause, which is either a general law for the interpretation of all statutes or one regulating the procedure under a particular statute. It seems incredible that bye-laws or other penal enactments should not contain some specific enumeration of those who are liable to be prosecuted for the offences which it is intended to prevent. We are glad to think that, while it has been thought proper to relax the severity of our criminal law, little or no sympathy is felt in this country for technical objections which occasionally allow those who are guilty to escape the punishment which they deserve.

Custom to Play Football in the Public Street.

A STRIKING instance of the tyranny of our ancient customs is reported from Warwickshire. It is stated that at Atherstone, a few days since, there was an exhibition of the ancient custom of playing football in the public thoroughfares. Business was practically at a standstill; the windows of public and private buildings were barricaded, and a huge crowd, made up of mill-hands, coal-miners, quarrymen, and others, chased a huge football through the streets. The custom was inaugurated some time prior to the granting of Magna Charta, and for upwards of 700 years its observance has been of an annual character (by which we suppose that it is not held upon a fixed day), and all attempts to abolish the custom have been useless. We do not wish to abolish the recollections of merry, or horseplaying, England, and there is a good classical authority for the proposition that it is good to play the fool at times. But this custom is in its nature a public nuisance and eminently calculated to lead to breaches of the peace. A similar custom prevailed for many years at Guildford and became so obnoxious to the respectable inhabitants that repeated efforts were made to suppress it, leading sometimes to dangerous riots. We cannot believe that such a custom would be supported at law. It is not like a custom to dance or play games on the village green, for that can be exercised without disturbing the avocations of those who have no wish to join in the sport. The custom to hold a market in the public street is not without benefit to the whole of the

community. But a custom for the noisy part of the inhabitants to neglect their labour and kick a ball about the public street is about as reasonable as a custom for boys to throw stones or play tipcat on the foot pavement. We hope that energetic efforts to suppress it may be attended with success.

Demeanour of the Audience at Criminal Trials.

A TRIAL has just been concluded at the Court of Assizes of the Seine which appears to have excited extraordinary interest; some of the younger avocats taking their seats on the floor in the neighbourhood of the bench, and efforts being made, up to the last moment, by persons of rank and fashion to procure admission to the court. We can find little in the facts of the case to explain this interest. One of the prisoners, a confidential clerk, had embezzled large sums of money, and had spent the greater part of it for the use of a woman of loose morals and expensive habits, with whom he had formed a connection, and for whose sake he had deserted his wife and children. This woman, who was associated with her paramour in the charge of embezzlement, was acquitted. He, less fortunate, was found guilty and sentenced to seven years' penal servitude. The scandalous behaviour of many of those present at the trial was the subject of some discussion in the Chamber of Deputies, and the Minister of Justice announced that in future tickets of admission to the court during criminal trials would not be granted. We should not be sorry if some check were placed on the admission of inquisitive and callous individuals at trials for murder and other heinous offences in this country. The behaviour of these persons is often open to the gravest censure. It is well known that some of our judges would welcome a change in the procedure which would enable them in criminal cases to clear the court of a large proportion of those who habitually resort to it.

Liability of Physician who Introduces Patient to a Convalescent Home.

AN ATTEMPT, which we are glad to see has failed, was recently made to extend the liability of medical practitioners for advice given to their patients. A patient, in an action brought by a physician for his charges, raised a counterclaim for damage which, as he alleged, he had sustained from improper treatment in a medical home which had been recommended to him by the plaintiff. Judgment was given for the plaintiff, who was able to produce strong professional evidence in favour of the home in question. Medical or convalescent homes have become very numerous and are undoubtedly a great convenience both to doctor and patient. But it must be remembered that the physician, in recommending one of these homes, is somewhat in the position of a traveller who recommends a hotel to his friends. He found the hotel good and comfortable a few weeks ago, but even a few weeks may make a great difference in its comfort, owing to change of servants and other accidents. The physician, in the same manner, may have found the home quite satisfactory when he last visited it, but cannot in reason be expected to warrant that it should be equally well conducted during the whole of the sojourn of the patient who is introduced by him.

Defrauding Railway Companies.

IN A CASE before one of the metropolitan magistrates, a passenger by the Great Eastern Railway Co. pleaded guilty to a charge of travelling without having previously paid his fare. The magistrate is reported to have said that he was surprised that power was not given to send persons to prison for this offence, instead of limiting the punishment to what was really a small penalty. The subject is by no means free from difficulty. The offence, which, we are afraid, is widely prevalent, is a mean and contemptible one, and it is not at all improbable that those who begin by defrauding railway companies will carry their dishonesty into other and more important transactions. We should have no objection to an alteration in the law by which an offender could be sent to prison for a second offence, but we do not think it often happens that a company is called upon to prosecute for such a fraud one who has previously been convicted of the same offence. The power to imprison a first offender might, on the other hand, be exercised so as to press

very unequally on different persons. In some cases the imprisonment would have little or no effect on the future prospects of the defendant; in others it would involve loss of employment and ruin.

Contempt of Court Again.

By the humble apology which he offered on Monday, the editor of the *National Review* saved the Court of Appeal from a very awkward dilemma, but he also deprived the country of the decision of a nice point affecting the liberty of the subject. Without saying a word for his unfortunate and slanderous publication, it is difficult to see how it could properly be interpreted as a contempt of court summarily punishable, and we gather from the report that the court carefully guarded itself against any assumption that it could be so considered.

It is true that the case, upon which comment was made, was in fact pending before the Court of Appeal. But neither the object nor the effect of the article could have been to influence or prejudice the fair trial of any question at issue there. The object was to criticize the fitness of a particular person to be appointed a judge; and no subject could be of greater public importance or more proper for public discussion, if it had been done in a proper spirit. The action, moreover, was not pending before a jury, but before three staid judges of the Court of Appeal; and no tribunal can be imagined less likely to be influenced by vapid rhetoric and inaccuracy of statement. None of the usual grounds for intervention by summary committal for contempt were present.

But it has been suggested that this autocratic remedy may be invoked against any publication reflecting upon the conduct of a judge. We cannot admit that such jurisdiction exists when the conduct of a judge outside his judicial functions is attacked; and, further, we say, as we have always said, that if it does exist, it ought at once to be abolished. In the recent case even such a straining of the jurisdiction would not have helped the applicant. For the matters referred to happened a long time before he became a judge; and it would be impossible to contend that criticism (however incorrect) of the doings of a barrister in his position of a private trustee could become contempt of court because he had afterwards been made a judge. More especially would this be so when the object was, not so much to attack the judge personally, as to blame the persons who appointed him. If this is contempt, it would be contempt of court to say that it was injudicious to appoint Mr. MOULTON to a judgeship in the very court in which an appeal was pending to which he was a party: a contempt which has probably been committed orally by everybody acquainted with the fact, except those immediately responsible for the appointment. And this unfortunate sequel has proved the justice of the almost universal comment.

There is, however, nothing more to be said upon the subject. The determination of these nice points has been avoided by the prompt apology of the editor; and we trust that they may never again arise for decision. If they should be raised, we have little doubt that the Bench will be strong enough to hold that such comments do not constitute contempt of court; that the law of libel is open to judges, as to others; and that they ought to vindicate their characters as individuals by the same process as is incumbent upon other persons. Judges, as individuals, are not outside or above either the civil or the criminal law; the King's writs run in their favour as well as against them, and the Royal Courts of Justice are not an Alsatia. One step more, and it would be contempt of court to sue a judge in ejectment or trespass!

Happy are the suitors who appeal to the Judicial Committee of the Privy Council, for they know but little of the law's delay, says a writer in the *Globe*. The members of the committee have heard all the Colonial and Indian appeals that were in their list at the beginning of the sittings. Very different is the lot of the English appellant. About forty appeals have yet to be heard by the Court of Appeal which were entered for hearing over nine months ago. Though more than half the term has gone, the list of final appeals from the King's Bench Division has not yet been touched. It contained 108 cases when the term commenced, and the number has since been increased to 136.

The Right of a Surviving Partner to Sell Real Estate which Belonged to the Firm.

The head-note to the case of *Re Bourne* (1906, 1 Ch. 113) commences as follows: "A surviving partner can mortgage or sell partnership real estate for the purposes of the business, and the mortgagee or purchaser is not concerned to see to the application of the money unless he has notice that it is going to be used for an improper purpose." Conveyancers will, of course, be inclined to welcome this pronouncement as the settlement of a doubtful and troublesome point. But, on reading the report through, they will find that the actual decision in the case, being concerned with an equitable mortgage only, is not of direct authority on the question of *sale* by a surviving partner; that the facts of the case were not those of a partnership by open contract, but those of a partnership regulated by a special agreement that the surviving partner should take over a deceased partner's share; that the judgment does not contain any such general proposition respecting the sale of real estate as is stated in the head-note, and, in fine, that the rule so conveniently laid down as regards the sale of partners' realty is simply an inference drawn by the reporter. Let us consider how far this inference was justified.

The point at issue appears to depend on the following general principles: Land, which is partnership property, is, in effect, held upon an implied trust for sale and conversion into money, and for application of the proceeds of the sale, first, in discharging the partnership liabilities, and, subject thereto, in dividing the same between the partners in proportion to their interests: *Darby v. Darby* (3 Drew. 495), *Attorney-General v. Hubbuck* (10 Q. B. D. 488, 13 Q. B. D. 275, 289); Partnership Act, 1890, ss. 20 (2), 22, 44. But the legal estate in such land devolves according to the manner in which it has been conveyed. Thus, if the land were assured to the partners as joint tenants in fee, on the death of any partner the surviving partners succeed to the whole estate at law, but in equity the land is subject to the above-mentioned trust and to the consequent estate or interest of the personal representatives of the deceased partner, proportionate to his share in the assets of the firm. During the continuance of the partnership, it does not appear that any one partner has authority to sell the real estate of the firm, except where the sale of real estate is part of the business of the partnership. For the authority, which every partner has, to act as agent for and to bind the firm, is confined to acts for carrying on in the usual way business of the kind carried on by the firm: Partnership Act, 1890, s. 5. And it has been laid down that the sale of partnership real estate, which is in general confined to the place of business of the firm, does not stand on the same footing as the sale of goods or commodities in which it is the business of the partnership to deal: *Butchart v. Dresser* (10 Hare 453, 456, affirmed 4 De G. M. & G. 542). Besides this, the sale of land cannot be carried out except by the execution of a *deed* of conveyance; and a partner has no implied authority arising from the relation of partnership to execute any deed on behalf of, and so as to bind, the firm: *Harrison v. Jackson* (7 T. R. 207), *Steiglitz v. Egginton* (Holt 141), *Marchant v. Morton* (1901, 2 K. B. 829, 832); Partnership Act, 1890, s. 6. It follows that, if a man propose to buy land, which is partnership property, during the continuance of the partnership, he cannot be advised to rest satisfied with a contract signed by one partner alone, or to accept a conveyance not executed by all the members of the firm.

The case of a legal mortgage of land stands on the same footing as regards the execution of the instrument of mortgage, on account of the inability of a partner to bind the firm by a deed executed on the other partner's behalf. But it appears that a partner has authority to make an equitable mortgage of the partnership land; for it is part of the ordinary business of a trading firm to raise money for partnership purposes by pledging any part of the partnership property: see *Re Clough* (31 Ch. D. 324) and the *dicta* in *Re Patent File Co.* (L. R. 6 Ch. 83), *General Auction, &c., Co. v. Smith* (1891, 3 Ch. 432, 441); Lindley on Partnership, i. 229, 1st ed.; 166, 7th ed.

Now if one partner dies, the authority of the surviving partners or partner to bind the firm continues so far as may be necessary to wind up the affairs of the partnership, and to complete transactions begun but unfinished at the time of the dissolution, but not otherwise: Partnership Act, 1890, s. 38. But subject to this authority, the rights of the surviving partners and the personal representatives of the deceased partner depend on the terms of the partnership agreement. In the absence of special stipulation, the rule is *Jus accrescendi inter mercatores locum non habet*; and according to this rule the real estate of the firm belongs in equity (subject to the above-mentioned trust for sale), not to the surviving partners, but to them and the legal personal representatives of the dead partner as tenants in common in the shares in which the partners owned the assets of the partnership during its continuance: *Re Ryan*, (Ir. Rep. 3 Eq. 222, 232), and see *Vyse v. Foster* (L. R. 7 H. L. 318, 319). Where this rule prevails, the legal personal representatives of the deceased partner have power to sell his share of the partnership assets, including any realty which belonged to the firm, and are the proper persons to receive the purchase-money therefor: *West of England, &c., Bank v. Murch* (23 Ch. D. 138).

In consequence of these rules, it has, as the writer believes, been the general practice of conveyancers, on the sale made by a surviving partner, under an open contract of partnership, of land which belonged to the firm, to require the personal representatives of the deceased partner to concur in the conveyance to the purchaser. For although, if the land had been conveyed to the partners jointly in fee, the surviving partner could convey the legal estate in the property sold, yet as regards the equitable estate therein, it was at least uncertain whether the surviving partner had such authority to sell as would bind the deceased partner's representatives. It is true that Mr. Dart expressed the opinion that it seems that a surviving partner can sell and make a good title to the real estate of the firm (1 Dart V. & P. (5th ed.) 85), but the authority on which he appears to rely (*Fox v. Hanbury*, Cwcp. 445) relates only to the sale of goods. The same opinion is also expressed in Judge LINDLEY's edition of his father's treatise on Partnership, p. 397, 7th ed., citing an American case of *Shanks v. Klein* (14 Otto 18). In that case the point in question seems to have been generally decided, although it should be observed that there the partners had dealt largely in the purchase and sale of real estate. Still, so far as the writer is aware, it has not generally been considered safe to act on these opinions or the American authority cited, the difficulty being the question whether a surviving partner alone can execute the implied trust for sale, on which partnership land is held, when he had no authority to sell that land by himself alone during the continuance of the partnership.

It is well known, however, that partnerships constituted by well-drawn articles of partnership are not what we have termed open contracts of partnership; but that in such deeds it is commonly provided that, on the death of any partner, the surviving partners or partner shall take over his share in the business at the valuation thereof made in the last annual account of the firm, and shall pay out the moneys so becoming due to the deceased partner's estate by instalments or otherwise. Where the articles of partnership contain such a provision as this, there is an absolute contract for the purchase by the survivors or survivor of the dead partner's share in all the assets of the firm; and so the entire property in these assets, including any real estate belonging to the firm, passes at once in equity, on the death of a partner, to the surviving members of the firm: *Vyse v. Foster* (L. R. 8 Ch. 309, 328, 7 H. L. 318, 330, 334, 335, 341, 345). It was even doubted by Lord SELBORNE whether in such case the deceased partner's representatives possess the ordinary vendor's lien for the amount due to them: *s.e. L. R. 7 H. L. 345*. Such a lien was, however, admitted, as against the assets and proceeds of sale thereof in the hands of the surviving partner, in the case of *Re Bourne* (1906, 1 Ch. 113, 114), and this would seem to be correct. But it is obvious that, where articles of partnership contain such provisions, their whole object is to enable the surviving partner to carry on the business without the intervention of the deceased partner's representatives, who are to have no more than a money claim; and it appears a necessary implication that the survivor has authority to dispose of the

assets to any purchaser or mortgagee free from any lien of the dead partner's representatives for the amount due to them. This view is confirmed by the case of *Re Langmead's Trusts* (20 Beav. 20, 7 De G. M. & G. 353). In that case two partners agreed by deed to dissolve partnership, one to take over the business and assets and pay the debts of the firm, and to pay a sum of money to the other. The partner continuing the business paid this sum, but not the firm debts; and he made a mortgage of a policy of life assurance, which had belonged to the firm, to secure an advance to himself. It was decided by ROMILLY, M.R., and KNIGHT-BRUCE, L.J., that the continuing partner, in effect, held the policy in trust for sale and application of the proceeds in payment of the partnership debts, and so could give a good discharge for the money borrowed, the mortgagee not being bound to inquire or see as to the application thereof; and that, on this ground, the mortgagee's claim was to be preferred to any right of the surviving partner to have the mortgaged property applied in paying the firm debts. TURNER, L.J., however, considered that, on the true construction of the agreement between the parties, the continuing partner was to take the assets of the firm free from any charge for the firm debts.

In the case of *Re Bourne* the articles of partnership contained a provision that on the death of a partner the surviving partner should take over his share of the assets of the firm, paying the value thereof to his representatives. One partner died; the other carried on the business, but did not pay to the executors of the deceased partner the value of his share. After the partnership debts had been discharged, the surviving partner deposited the title deeds of land, which had belonged to the firm, with his bankers to secure an advance made to himself. It was held by FARWELL, J., that this equitable mortgage to the bankers had priority over the lien of the deceased partner's executors for the amount due to them. He based this decision principally on the case of *Re Langmead's Trusts*, to which he referred in his judgment as a decision upon the sale by the continuing partner of the assets of the firm, and as based on the ground that a surviving partner is in the position of a trustee who has power to sell and power to give receipts, on which a purchaser from him is entitled to rely: see 1906, 1 Ch. 118, 119.

It is respectfully submitted that no fault can be found with the learned judge's decision on the actual point raised—viz., that the claim of the equitable mortgagee from the surviving partner had priority over the lien of the deceased partner's representatives. If, as it appears to be admitted on all hands, one partner has authority to make an equitable mortgage of the firm's real estate during the subsistence of the partnership, that authority must continue for the purpose of winding up the affairs of the firm after a dissolution; and since the authority exists for the purpose of raising money to pay the firm's debts, it is in accordance with settled principles that there should be implied powers for giving good receipts and exonerating the mortgagee from the inquiry whether any firm debts remain unpaid. Besides this, there is the further ground that it must be implied from the provisions for the purchase by the surviving partner of the deceased partner's share that the survivor shall have power to dispose of all the assets of the firm free from any lien of the deceased partner's representatives. It is submitted that this ground was essentially a part of the basis of the decision in *Re Langmead's Trusts*, where the courts were concerned, not with an open contract of partnership, but with an agreement for dissolution of partnership containing stipulations for the purchase of the outgoing partner's share. FARWELL, J., did not advert to this distinction, nor to the fact that this difference also existed between the case before him and the Irish case of *Re Ryan* (Ir. Rep. 3 Eq. 222), which he professed to find some difficulty in understanding. The learned judge gave it as the general ground of his decision that the principle laid down in *Re Langmead's Trusts* was equally applicable to a disposition of real estate as of a *chess in action*, such as a policy of life assurance. Here again, we would respectfully submit that he was right. But it must not be forgotten that both *Re Langmead's Trusts* and the case before him were cases of mortgage, not sale, and that in each there was an agreement for purchase by the continuing partner of the other partner's share.

The writer's conclusion is that the general proposition in the head-note to *Re Bourne* is not justified, with respect to the sale of partnership land, either by the decision or the judgment.

As regards the effect of the decision on conveyancing practice, it is submitted that the case of *Re Bourne*, coupled with the judgments in *Re Langmead's Trusts* and *Vyse v. Foster*, shews that a title to real estate lately held in partnership may be safely accepted, on a sale, from a surviving partner alone, where the articles of partnership provided that he should take over the deceased partner's share at its value according to the last annual account. But as regards a purchase of partnership land from a surviving partner under an open contract of partnership, it is submitted that, until the point in doubt shall be actually decided by the English courts, conveyancers cannot safely abandon their present practice, and should still require the concurrence of the deceased partner's personal representatives in the conveyance to the purchaser.

Where, as sometimes happens, articles of partnership provide that, on the death of a partner, the surviving partner shall have the option, to be exercised within a specified time, either of purchasing the share of the deceased partner or of winding up the business (Davidson, Prec. Con., vol. v., pt. ii., p. 355, 3rd ed.), it is thought that, until the option to purchase be duly exercised, or if it be not exercised, or be not precisely exercised according to the terms thereof (see *Vyse v. Foster*, L. R. 7 H. L. 318, 329), the executors or administrators of the deceased partner should be required to concur in any sale by the surviving partner of real estate which belonged to the firm. If, however, the option to purchase should be duly exercised by the surviving partner, it is thought that, according to the general rule, the exercise of the option would relate back to the time of its creation, and there would be an absolute contract for the purchase of the deceased partner's share deriving its effect from the articles of partnership. In that case it is conceived that it would be unnecessary to require the concurrence of the deceased partner's personal representatives in a sale made by the surviving partner of partnership land; but it would be necessary for the vendor to adduce evidence that he had duly exercised the option of purchase exactly according to the precise terms thereof in all respects.

T. CYPRIAN WILLIAMS.

Reconstruction of Companies.

THE decision of KEKEWICH, J., in *Bisgood v. Nile Valley Co. (ante*, p. 290), following *Manners v. St. David's Gold and Copper Mines (Limited)* (1904, 2 Ch. 593), shows the difficulty of carrying out a scheme for the reconstruction of a company which involves the exchange of paid-up shares for shares only partly paid up except under the statutory restrictions imposed by section 161 of the Companies Act, 1862. That section, as is well known, contemplates a sale of the assets of the company by the liquidator for shares in the purchasing company, and these shares may be distributed among the shareholders in the old company, subject to the right of any dissentient shareholder to require the liquidator to purchase his interest at a price to be fixed either by agreement or by arbitration. In order to provide a more convenient mode of dealing with dissentient shareholders, it became the practice to provide by articles of association that they should not have the rights thereby given to them, but that a dissentient shareholder might require the liquidator to sell the shares in the purchasing company to which he would be entitled, and to pay over the net proceeds to him. This device, however, was an attempt to deprive the dissentient shareholders of their statutory rights, and the decision of STIRLING, J., in *Payne v. The Cork Co. (Limited)* (48 W. R. 325; 1900, 1 Ch. 308) shewed that it was not effectual, and that, where the sale was carried out by a liquidator under section 161, a dissentient shareholder could claim to have the procedure of that section followed, notwithstanding the provision to the contrary contained in the articles of association.

It is not necessary, however, that a scheme for the reconstruction of a company should be carried out by means of a sale in a winding up. In general the memorandum of association contains power to sell the undertaking of the company while it is still a going concern either for cash or shares, and

to divide among the members *in specie* any of the assets of the company, and the articles confer a similar power of division upon the liquidator. Accordingly a sale can be made by the directors, with the sanction of a general meeting, and a voluntary winding up may then be commenced and the shares in the new company distributed. Where the shares to be distributed are fully paid up, this course is not likely to create difficulty, but frequently schemes of reconstruction are carried out with a view to raising fresh capital, and then the question of dissentient shareholders has to be faced. The shareholders are required to give up their fully-paid shares and take instead shares which are issued as only partly paid up, and naturally there are some who decline to accept this fresh liability. In *Manners v. St. David's Gold, &c., Mines (Limited)* (*suprd*) the arrangement provided that in such cases the new shares not taken up should be sold by the liquidator, and that the net proceeds should be applied towards the discharge of the debts of the old company, but the Court of Appeal, affirming JOYCE, J., held that a sale upon those terms was *ultra vires*.

To appreciate this result the circumstances of the case must be somewhat more fully stated. The St. David's Gold and Copper Mines (Limited) was incorporated in 1898 with a capital of £60,000 in £1 shares. These were subsequently subdivided into 240,000 5s. shares, all being issued and paid up. The memorandum of association contained power to sell the undertaking of the company and to accept in payment shares of any other company, whether wholly or partly paid up, and to distribute shares *in specie*; and the articles of association provided that, in the event of a winding up, the liquidators might distribute among the members shares taken upon a reconstruction. In 1903 further capital was required, and it was proposed to reconstruct the company so as to raise £12,000, the 240,000 5s. shares being exchanged for the same number of shares in the new company of the same nominal amount, but with only 4s. paid up. The new company was registered, and an agreement was entered into between the old and the new company for the sale of the undertaking of the former in consideration of the allotment by the new company of 240,000 5s. shares credited as paid up to the extent of 4s. each, and in further consideration of the new company undertaking the liabilities of the old one. The agreement provided that, in case the old company should go into liquidation and distribute the consideration shares, all shares not accepted by its members should be sold, and the proceeds applied in payment of the debts of the old company in relief of the obligation of the new company under the agreement.

The agreement was confirmed at an extraordinary meeting of the old company, and at the same meeting resolutions were passed for voluntary liquidation, and for the distribution of the shares in the new company in accordance with the agreement, and for the sale of such as were not accepted. It was objected that this arrangement was simply a device to deprive dissentient shareholders of their rights under section 161. Admittedly the sale was not under that section. It was a sale by the company while a going concern under the power in the memorandum of association, but the distribution was not a proper dealing with the assets of the company. The consideration shares became the property of the company, and by section 133 of the Act of 1862 the liquidator was debarred from disposing of any of them for the benefit of the new company. To this reasoning JOYCE, J., assented, describing the transaction as a device to compel the members to provide additional capital when no further call could be made. Similarly in the Court of Appeal ROMER, L.J., said: "It is a scheme whereby the shareholders of a company who have paid up their shares in full and are not under any liability to furnish any further capital are told, 'You must pay up more capital, and if you do not you shall forfeit all share and interest in this company as a going concern.' Such a scheme is wholly improper and *ultra vires*." And COZENS-HARDY, L.J., pointed out that, since the sale was made under the power in the memorandum, it must, to be valid, be a sale out and out of the undertaking, and that the shares when received by the going company must be dealt with as part of the assets of the going company, or distributed in due course under the winding up of the company.

The dominant feature in *Manners v. St. David's Gold and Copper Mines (Limited)* (*suprd*) was that the proceeds of sale of

the partly paid-up shares in the new company which were not accepted by members of the old company were to be, in effect, handed over to the new company, and this was an interference with the rights of those members which was naturally fatal to the scheme. But in the recent case of *Bisgood v. Nile Valley Co. (Limited)* (*suprd*) this feature was wanting, and the point for determination was whether a scheme which provided for sale of the unaccepted shares by the liquidator, and for handing to the members their proportion of the proceeds, could be supported. Here also the memorandum of association of the company contained power to dispose of the undertaking of the company and to accept as the consideration shares in another company having objects similar to those of the company; and also to distribute among the members *in specie* by way of dividend or bonus, or upon a return of capital, any property of the company or any proceeds of sale of property of the company. The company had a capital of £250,000 in fully-paid £1 shares. Further money being required to carry on the undertaking, the directors decided upon a scheme of reconstruction under which the undertaking would be transferred to the new company in consideration of shares of the same nominal amount as those of the old company, but credited as paid up only to the extent of 16s. a share. The members of the old company were to be entitled to claim an allotment of their proportion of these shares provided the claim was made within a specified time. The agreement for sale provided that, as regards shares of the new company which were not so claimed, the liquidator should use his best endeavours to sell the same for what they would fetch, and the net proceeds of sale were to be distributed rateably among the members who, if they had claimed, would have been entitled to such shares in accordance with their rights and interests." A meeting of the shareholders of the old company was held at which this agreement was approved.

It was objected to this scheme that it was, as in *Manners v. St. David's Gold Mines*, a device for compelling the shareholders to provide more capital, and KEKEWICH, J., held that in this respect it was governed by that case, and the scheme was therefore *ultra vires*. The proper procedure under the powers of the memorandum of association was for the liquidator to realize the shares and divide the proceeds, after deducting expenses, among the shareholders. The liquidator was, indeed, entitled to distribute the shares *in specie*, but the fact that they were partly unpaid made it impracticable to do this. Shareholders could not be compelled to accept shares upon which there was a liability, and the learned judge considered, too, that they were not bound to accept instead a proportionate part of the proceeds of the shares. He admitted the distinction between the present case and *Manners v. St. David's Gold Mines*—namely, that in the earlier case the dissentient shareholders would get nothing, since the proceeds of the sale were to go to the purchasing company, whereas in the present case the dissentient shareholder was to get his rateable proportion of the proceeds. But the scheme was open to the fundamental objection that it required the shareholder either to take up new shares upon which there was a liability, or to forfeit the interest in the old company to which he was entitled. The result is that a scheme of reconstruction which involves the acceptance of new shares only partly paid up, in exchange for old shares fully paid up, cannot be carried into effect under the powers of sale and of division of assets *in specie* contained in the memorandum of association; in other words, it is not possible to make use of these powers for the purpose of depriving dissentient shareholders of the rights given to them by section 161 of the Act of 1862. If the directors are not prepared to proceed under that section, the scheme can be carried through only with the assent of all the shareholders.

Mr. Arthur Cohen, K.C., was entertained at dinner at the Grand Hotel this week by a number of his friends at the bar and others, in celebration of his recent appointment as a Privy Councillor. The Lord Chancellor presided, and among those present were Lord James of Hereford, Lord Macnaghten, Viscount Selby, Lord Justice Vaughan Williams, Lord Justice Stirling, Lord Justice Cozens-Hardy, Lord Justice Moulton, Mr. Justice Graitham, Sir Gorell Barnes, Mr. Justice Bucknill, Mr. Justice Bray, Mr. Justice Swinfen Eady, Mr. Justice Joyce, and Mr. Justice Warrington.

Reviews.

Books of the Week.

A Treatise on Deeds. By ROBERT F. NORTON, K.C., assisted by R. H. DUN and DIGBY L. F. KEE, Barristers-at-Law. Founded Upon, and in Lieu of a Second Edition of Rules for the Interpretation of Deeds. By H. W. ELPHINSTONE (now Sir HOWARD W. ELPHINSTONE, Bart., and one of the Conveyancing Counsel of the Court), the Author, and JAMES WILLIAM CLARK, K.C. Sweet & Maxwell (Limited).

The Law and Practice Relating to Letters Patent for Inventions. By THOMAS TERRELL, K.C. FOURTH EDITION. By COURTNEY TERRELL, Barrister-at-Law. Sweet & Maxwell (Limited).

Divorce Bills in the Imperial Parliament. By JAMES ROBERTS, M.A., LL.B., Barrister-at-Law. Dublin: John Falconer.

Points to be Noted.

Company Law.

Debentures—Re-issuing.—Where there is an issue of debentures creating charge and ranking *pari passu*, and no special power is given to re-issue debentures which have been paid off, and on paying off a debenture the company takes a transfer of it to itself, there is a merger: the debenture is dead and cannot be re-issued. That was decided by Buckley, J., in *Re George Routledge & Sons* (1904, 2 Ch. 474). But suppose that, instead of taking a transfer to itself, the company receives back the debenture with a transfer indorsed on it, signed by the debenture-holder, but leaving a blank for the name of the transferee, and subsequently the company takes the face amount from A. B., fills up the blank with his name, and hands him the debenture—has A. B. any security as against the other debenture-holders? The Court of Appeal says that he has not. In arriving at this conclusion the court has applied to well-known commercial document, principles which have been laid down with regard to mortgages of real estate, and so long ago as 1856, it was settled that a mortgagor who *pays off* an incumbrance created by himself on real estate cannot set it up against a subsequent incumbrancer. Other rulings, by one of the Lords Justices, were (1) that the re-issue was in substance the creation of a fresh charge which required a new stamp; (2) that payment off of the loans in respect of which the debentures were issued had the same effect as payment off of the amounts due on the debentures themselves; (3) that even contemporaneous transfer to a trustee for the company is not conclusive evidence against the presumption that the charge was to be extinguished; (4) that without express power a company which has issued debentures to the full authorized amount cannot re-issue a debenture. But the case does not seem quite clear on one or two points. If payment off the debenture, can it be kept alive or restored to life by taking the transfer in the name of a trustee for the company, even if there is a clear and unequivocal expression of an intention to keep the debenture alive? Is the transferee a secured creditor as against the company, of course, ranking after the debentures of the series which have not been paid off? Does an express power (inserted in all the debentures) to re-issue debentures enable the company to re-issue so as to bring the debentures re-issued in line with the unredeemed debentures? The last question may safely be answered in the affirmative. The second question would probably be answered in the same way. But it can scarcely be considered quite safe to take a debenture which, on payment off by the company, was transferred to a trustee for the company, even where there is such a contemporaneous expression as is mentioned above.—*RE W. TASKER & SONS (LIMITED)* (C.A., Aug. 5, 1905) (1905, 2 Ch. 587).

Mr. Justice Bargrave Deane has been prevented by illness from sitting in the Admiralty Division this week.

At Holbeach (Lincolnshire) County Court, on Saturday in last week, says the *Times*, before his Honour Judge Sir George Sherston Baker, an action was brought at the instance of the Dean and Chapter of Ely against Mr. R. Winfrey, M.P. for South-West Norfolk, for non-payment of 7s. 10d. tithe on land in the parish of Gedney, Lincolnshire, of which the respondent was the owner. The tithe was for the years 1904-5, and the defence was that, although the defendant had been the owner of the land for twenty-seven years, neither he nor the tenant had been called upon to pay tithe, and it was argued, therefore, that it was barred by the Statute of Limitations. On behalf of the tithe-owners it was stated that the tithe in error had been collected from the wrong party in previous years. His Honour held that as the defendant had not been called upon to pay for the past twenty years the payment of tithe could not now be enforced, and he also held that it could not be recovered in future. Judgment was given for the defendant with costs.

Cases of the Week.

High Court—Chancery Division.

Re MOORE. MOORE v. BIGG. Swinfen Eady, J. 2nd March.

WILL—SETTLEMENT—POWER OF SALE—PROPERTY NOT ORIGINALLY COMPRISED IN SETTLEMENT—TRUSTEES FOR PURPOSES OF SETTLED LAND ACTS, 1882-1890 (45 & 46 VICT. c. 38, 47 & 48 VICT. c. 18, 50 & 51 VICT. c. 30, 52 & 53 VICT. c. 36, 53 & 54 VICT. c. 69).

Originating summons. By his will dated the 16th of July, 1880, F. J. Moore gave to his trustees a power of sale, which was not, however, to operate in respect of the mansion-house and the bulk of the real property, and the proceeds of such sale were directed to be reinvested in land. There had never been an appointment of trustees for the purposes of the Settled Land Acts, 1882 to 1890. The residue of the testator's personal estate was bequeathed on trust for sale and conversion, and the proceeds of such sale were to be applied in purchasing land, which land was to be subject to the aforesaid power of sale. In accordance with this direction a quantity of land had been purchased. In negotiating for the sale of the mansion-house and lands under the Settled Land Acts, 1882 to 1890, the tenant for life asserted that the trustees of the will were trustees for the purposes of those Acts by virtue of section 16 (1) of the Settled Land Act, 1890, inasmuch as they were trustees under the settlement with powers of sale of other land comprised in the settlement and subject to the same limitations as the land to be sold. It was contended, on the other hand, that section 16 (1) was intended to refer only to land originally comprised in the settlement, whereas in this case the only land subject to a power of sale had been subsequently purchased. Under these circumstances the tenant for life, who was also one of the trustees, took out this summons for the purpose of determining whether the trustees of the will and codicils of the testator were trustees for the purposes of the Settled Land Acts, 1882 to 1890, of the settlement of the mansion-house and lands created by the said will and codicils. This summons was taken out under the Settled Land Act, 1882, s. 44, in lieu of resorting to a vendor and purchaser summons.

SWINFEN EADY, J., held that the trustees were trustees for the purposes of the Settled Land Acts, 1882 to 1890. They came within the meaning of section 16 (1) of the Act of 1890. He could not agree with the contention that they were not within that section of the Act merely because, although they were trustees of land subject to the limitations of the settlement, yet that land was not originally comprised in the settlement. That was placing too narrow a construction on the section. The land purchased with the residuary personality was comprised in the settlement, as much as land originally comprised in it. The question raised must be answered in the affirmative.—COUNSEL, T. A. Nash; C. L. Coots; H. B. Vaisey. SOLICITORS, Wood, Bigg, & Nash; Ernest Bevir.

[Reported by F. HARDINGE DALSTON, Esq., Barrister-at-Law.]

Re J. W. CLARK (DECEASED). Re LANDS CLAUSES CONSOLIDATION ACTS, Re LONDON COUNTY COUNCIL (TRAMWAYS AND IMPROVEMENTS) ACT, 1901. Swinfen Eady, J. 1st March.

PRACTICE—COSTS—COMPULSORY POWERS OF PURCHASE—MONEY IN COURT—RE-INVESTMENT—COSTS OF APPLICATION AND EXPENSES.

Adjourned summons. This summons was adjourned into court to be disposed of on a question of costs alone. In 1902 the London County Council acquired, under compulsory powers, certain land in Walworth from the trustees of the will of J. W. Clark. The agreed purchase-money was £930, and the council were to pay the costs of the negotiations. In due course the sum of £930 was paid into court. The present application was for re-investment in land. In 1905 the trustees contracted, subject to the approval of the court, to buy twelve pieces of land at Southfields, with twelve messuages thereon, for £2,178 17s. 3d. The investment was, therefore, one for which the funds were found partly from the money in court, and partly, and to a greater extent, from money in the hands of the trustees. The trustees contended that the order as to costs should be such as appears in Seton's Forms of Judgments and Orders (6th ed., p. 2457). It was contended by the council, on the other hand, that the order should direct the council to pay the taxed costs of the application and such proportion of the costs, charges, and expenses of the investment of the said sum of £2,178 17s. 3d., including all *ad valorem* fees, brokerage, and scale fees, as the amount of the purchase-money contributed by the council bore to the whole purchase-money of £2,178 17s. 3d.

SWINFEN EADY, J., said that the practice in such cases was for the order to be as on p. 2457 of edition 6 of Seton's Forms of Judgments and Orders, Form 2. That form was adapted to cases where part only of the purchase-money was provided out of court. He was not satisfied that that form would work any injustice in the present case. The practice was that where the purchase-money exceeded the fund in court, and the applicant provided the balance, the company had to pay the whole costs, except so far as they had been increased by reason of the purchase-money exceeding the fund in court. This rule was well settled and conformed with section 80 of the Lands Clauses Act, 1845. The order must therefore go in the form mentioned.—COUNSEL, Eve, K.C., and E. S. Ford; R. J. Parker. SOLICITORS, Burchell, Wilde, & Co.; Seager Berry.

[Reported by F. HARDINGE DALSTON, Esq., Barrister-at-Law.]

High Court—King's Bench Division.

HOPKINS v. GUDGEON AND ANOTHER. GUDGEON, Claimant.
Div. Court. 27th Feb.

BILL OF SALE—REGISTRATION—EXECUTION CREDITOR—INTERPLEADER ACTION
—BILLS OF SALE ACT, 1878 (41 & 42 VICT. c. 31), s. 8.

Appeal from the County Court of Hampshire held at Portsmouth. By an agreement dated the 31st of December, 1903, the defendant T. W. Gudgeon transferred his business and all his effects, including his furniture in his house at Ryde where the business was carried on, to a limited company formed for the purpose of taking the same over. The defendant continued to reside in the house and to use the furniture, for which by the said agreement he was to pay the company a weekly sum. The defendant managed the business on behalf of the company. The company having got into financial difficulties in July, 1904, the mother of the defendant, the claimant in this action, purchased the furniture for £200, which sum was *bond fide* used for the payment of the debts of the company and of the defendant. The defendant, notwithstanding the purchase, continued to use the furniture and to reside in the house down to December, 1904, when he removed with the furniture to Southsea. In April, 1905, judgment was recovered against him for £53 10s., and the judgment creditor levied execution on the furniture. Mrs. Gudgeon having claimed the furniture, an interpleader summons was taken out, and the judge gave judgment against the claimant. The claimant now appealed. The Bills of Sale Act, 1878, s. 8, provides: "Every bill of sale to which this Act applies shall be duly attested and shall be registered under this Act . . . otherwise such bill of sale, as against . . . all sheriffs' officers and other persons seizing any chattels comprised in such bill of sale in the execution of any process of any court . . . shall be deemed fraudulent and void as regards the property in or right to the possession of any chattels comprised in such bill of sale which at or after the time of . . . executing such process are in the possession or apparent possession of the person making such bill of sale. . . ." Counsel for the appellant argued that before the judgment creditor could succeed he must shew that the goods were in the possession of the grantor of the bill of sale sought to be impeached for non-registration. The defendant was not the grantor to the claimant; the company was the grantor, and the goods were no longer in possession of the company because the defendant had removed them from Ryde to Southsea. It was true that the agreement of December, 1903, should have been registered as a bill of sale, but that would not affect the final assignee, who had purchased in good faith and had perfected her title as against an execution creditor by taking the goods out of the possession of her grantor—viz., the company. *Morewood v. South Yorkshire Railway* (28 L. J. Exch. 114) and *Antoniadi v. Smith* (1901, 2 K. B. 589) clearly shewed that if the final transferee shewed a registered title it was immaterial that antecedent bills of sale had not been effected by registration. If the claimant had registered her bill of sale no question could have arisen, but she had done what was the equivalent for the purposes of section 8—viz., she had removed the goods from the apparent possession of the grantor. Counsel for the respondent said that, the goods having remained throughout in the possession of the original grantor, the claimant must shew a registered bill of sale, otherwise the mischief aimed at by the Act would not be met. The distinction in the *Antoniadi* case was that the final transferee had perfected the title by registration.

THE COURT (Lord ALVERSTONE, C.J., and RIDLEY and DARLING, JJ.) dismissed the appeal.

Lord ALVERSTONE, C.J., in the course of his judgment, said that the simple question was, when the goods were claimed by a *bond fide* purchaser from the company, could the claim of the execution creditor be defeated if there were no registration of any part of the title. He said "any part" because from Lord Selborne's Judgment in *Cookson v. Swire* (9 App. Cas. 653, at p. 663) it might be possible that registration of the bill of sale by the company to the claimant might have done; he did not say it would have done, for the case had not yet arisen. He thought that where a person sought to set up a title for goods which have been throughout in the possession of the judgment debtor, as against the execution creditor, the claimant must shew either a registered title or something done with the goods which rendered registration unnecessary. The county court judge had come to a right conclusion, and the appeal must be dismissed.

RIDLEY and DARLING, JJ., concurred.—COUNSEL, Grimwood Mears; English Harrison, K.C., and Cabale. SOLICITORS, Gears & Miller, for Bowker & Sons, Winchester; Real, for J. Robinson, Southsea.

[Reported by MAURICE N. DAUQUER, Esq., Barrister-at-Law.]

County Courts.

CARTER v. SHIPWAY. Birmingham. 28th Feb.

WORKMEN'S COMPENSATION ACT, 1897, s. 7 (2)—Is a TIMBER-YARD A "WAREHOUSE"?

Application for compensation. The facts were not in dispute. The respondent was a timber merchant having several places of business in Birmingham, and the applicant was a labourer in his employ. The workman was engaged in a yard in Barford-street occupied by the respondent, which was bounded on two sides by walls belonging to adjoining buildings, of which he was neither owner nor occupier, at the back by a wooden fence or palisade, and in front by a similar fence in which were two wooden doors. There was no building of any description on the land, which measured 11 yards by 24 yards and was used for the purpose of stacking timber, which was removed as required. The quantity of timber stacked in the yard

varied from time to time, sometimes there might be seventy tons. About 90 per cent. of the respondent's trade was retail. On the 21st of August, 1905, the applicant was on a timber platform about 10 feet from the ground stacking deals, when his hand slipped, and he fell, damaging his spine and shoulder. Counsel for the workman contended that the yard was a warehouse. It was not necessary to have anything in the nature of building; the only necessary condition was that it should be a place where goods were stored in bulk. The interpretation of the word "warehouse" as used in the Workmen's Compensation Act, 1897, should be progressive, as it had been in that of scaffolding. He referred to *Green v. Britten* (6 W. C. C. 82) and *Willmot v. Paton* (4 W. C. C. 65). The solicitor for the respondent contended that a timber-yard was not a warehouse, either in the ordinary sense of the word nor the Act. If it were otherwise, no line could logically be drawn so as to prevent any space of land, fenced in however sparsely, from being a warehouse. To make a place a warehouse there must be buildings upon the land and a roof. The yard in this case was not a warehouse in fact, and the judge was prevented from holding it to be a warehouse in law by the *dicta* of Collins, L.J., in *Haddock v. Humphrey* (2 W. C. C. 77) and of Cozens-Hardy, L.J., in *Buckingham v. Mayor of Fulham* (7 W. C. C. 82).

His Honour took time to consider his award.

Feb. 28.—His Honour Judge BRAY said that he could find no case in which an open yard such as existed in this case had been held to be a warehouse. It did not appear to have been contended in the case of *Haddock v. Humphrey* that this was possible. The applicant was asking him to ignore the words used by Collins, L.J., in that case and to treat them as antiquated law. In both *Willmot v. Paton* and *Green v. Britten*, there were buildings on the land. The learned judge then referred to the judgment of Cozens-Hardy, L.J., in *Buckingham v. Mayor of Fulham*, and held that the particular premises in this case could not be and were not a warehouse. Application dismissed.—COUNSEL for the applicants, E. W. Cave. SOLICITORS, T. Haynes Duffell, Birmingham; Tyndall & Co., Birmingham.

Solicitors' Cases.

Solicitors Ordered to be Struck Off the Rolls.

March 6.—HARRY DOUGLAS BERKELEY, 5 and 6, Clement's-inn, London.
March 6.—WILLIAM GEORGE DAVIES.
March 6.—DAVID BOWEN EVANS.
March 6.—THOMAS FAIRTHORNE GREENWOOD, 46, Stockwell-green, London.
March 6.—ROBERT HENRY WATERLOO HANNA.
March 6.—ARCHER BENJAMIN SMITH.

Solicitor Ordered to be Suspended.

March 6.—FRANKLIN WILLIAM TUNKIN, Gerrard-street, London.
Suspended for six months.

Law Societies.

Chester and North Wales Incorporated Law Society.

The twenty-fifth annual general meeting of this society was held at the Town Hall, Chester, on Tuesday, the 27th of February, 1906, Mr. Charles P. Douglas (Chester), president, in the chair.

The report of the committee and the treasurer's accounts for the past year were received and adopted.

The prize for articled clerks founded by Mr. John Allington Hughes when president of the society in 1891-2 was presented by the president to Mr. William Helmeley Brown, who served his articles with Mr. E. S. Giles, of Chester, and was placed in the first class at the Honours Examination held in June last, and was awarded the John Mackrell prize by the Law Society.

The following officers of the society were unanimously elected for the ensuing year: Mr. H. A. Cope, of Holywell, elected president; Mr. Taylor, of Chester, elected vice-president; Mr. F. B. Mason, of Chester, re-elected hon. treasurer; and Mr. R. Farmer, of Chester, re-elected hon. secretary.

The following gentlemen are the committee for the year: Messrs. Chas. A. Jones (Carnarvon), C. H. Pedley (Crewe), L. Lloyd John (Corwen), W. Thornton Jones (Bangor), and S. J. R. Dickson, H. G. Hope, H. D. Jolliffe, C. P. Douglas, and W. A. V. Churton (all of Chester).

Messrs. E. S. Giles and N. A. E. Way, both of Chester, were re-elected auditors.

The annual dinner was held at the Blossoms Hotel, Chester, after the meeting.

The following are extracts from the report of the committee:

Members.—The society now numbers 188 members. Seven barristers subscribe to the library. Three members, Messrs. Algernon Fletcher, of Northwich; Thomas A. Fletcher, of Chester; and Samuel Smith, of Chester, have died during the year. It will be recollect that Mr. Algernon Fletcher was elected vice-president of the society in 1903, and was re-elected in 1904, his health not permitting him to undertake the duties of president. It is much to be regretted that he was never able to fulfil his wish to pass the chair. The death of Mr. Samuel Smith calls for more than passing notice. Throughout his professional career, Mr. Smith was a strenuous advocate of law societies, holding them to be of great

advantage to the profession. Mr. Smith was one of the founders of the old Chester Law Debating Society, which afterwards developed into the Chester Law Library. In 1881, the Chester Law Library was amalgamated with the Denbighshire and Flintshire Law Society and the combined societies were incorporated under the present title, Mr. Smith taking an active share in the arrangements. For nine years he was an energetic member of the committee. In 1889 he was elected vice-president, and in 1890 president of the society; and as president he gave a well-remembered banquet to all the members of the society and many of his personal friends. His advice and assistance were always readily placed at the disposal of your secretary, who desires to record his personal sense of the loss the society has sustained.

University College of Wales, Aberystwith.—At the instance of the authorities of this University, your committee in April last presented a petition to the Law Society praying them to consider favourably the advisability of supporting the faculty of law established in connection with the University; and subsequently, a resolution supporting an application to the Law Society for a grant towards the expenses of this work was passed and forwarded to the proper quarter.

Public Trustee and Executor Bill.—In the last session of Parliament this was introduced into the House of Commons, and passed through the Standing Committee on Law. Your committee, after examining the Bill, arrived at a strong conviction that its provisions as they stood were mischievous and uncalled for. They, therefore, took active steps to call the attention of local Members of Parliament, bankers, and others to the Bill, and to obtain the support of the Members of Parliament to amendments prepared by the Law Society. The Bill was also considered at a special meeting of the Associated Provincial Law Societies, at which your president and treasurer represented your society, when the secretaries were instructed to arrange for amendments to be set down and moved in Parliament. The Bill was subsequently dropped. If it should again be introduced the committee trust that the efforts already made may have done something to ensuring that it may receive adequate examination in its early stages.

Land Transfer Act.—The working of this Act was very fully discussed at the meeting of the Associated Provincial Law Societies above referred to, when the secretaries were authorized to represent the views of the meeting at a conference with the Land Transfer Committee of the Council of the Law Society. In January of the present year, at the suggestion of the Law Society, your committee caused the following questions to be addressed to all candidates for constituencies in the society's district: (1) Will you oppose further compulsory registration of land? (2) Are you in favour of the present compulsory registration of land being suspended, leaving owners of land free to register or not, as they find most to their advantage.

Solicitors' Room at Chester Castle.—The committee having had their attention called to the lack of a room at Chester Castle for the use of solicitors attending assizes and quarter sessions, communicated with the clerk of the peace, who has very courteously caused a room in the Crown Court to be reserved for solicitors.

United Law Society.

Feb. 26.—The president, Mr. A. H. Richardson, in the chair.—Mr. Wilfred Hooper, solicitor, was elected a member of the society. Points of law and practice were propounded by Mr. Robert Walker and by Mr. S. P. Kerr, and subsequently referred to the decision of the President. Mr. S. P. Kerr then moved, and Mr. Lionel Benson opposed, the following resolution: "That the decision of the Court of Appeal in *Braithwaite v. Foreign Hardwood Co.* was wrong (1905, 2 K. B. 543)." The motion was lost by 10 votes to 3.

March 6.—The president, Mr. A. H. Richardson, in the chair.—Mr. Godfrey, solicitor, was duly elected a member of the society. Mr. Kirby propounded a point of law which gave rise to a very interesting discussion. Mr. Neville Tebbutt moved an amendment rule 8 of the society's rules. The matter was referred to the consideration of the committee. Mr. Kirby then moved, and Mr. A. M. Bullock opposed, the following resolution: "That the case of *Risdon Ironworks v. Furness* (75 L. J. K. B. 83) was wrongly decided." The resolution was lost by 12 votes to 3.

The Solicitors' Managing Clerks' Association.

At a meeting of this association Mr. G. J. Offer has been elected president of this association for the ensuing year, and Mr. James Kemp, Mr. A. C. Crane, and Mr. H. Hall have been respectively re-elected as general secretary, treasurer, and librarian. Mr. T. G. Fellows was appointed secretary to the committees' and members' meetings, and Mr. H. E. Harris and Mr. C. B. Bockett were respectively appointed members' and council's auditors. At the same meeting Mr. Alfred Turner (late president) was re-elected to the office of vice-president of the association.

Norfolk and Norwich Incorporated Law Society.

The following are extracts from the report of the committee:

Members.—The number of members is now seventy-seven, of whom three are life members and sixty-one members of the Law Society. The number of barristers, justices of the peace, and others, not being members of this society, who subscribe to the law library is eleven, of whom one is a life member.

Land Transfer.—A communication having been received from the Law Society asking for assistance in bringing before Parliamentary candidates the objections to compulsory registration of land, and the necessity of a thorough inquiry into the working of the system in London before making

any attempt to extend it to the provinces, the committee undertook to circularize the candidates for Norwich, Yarmouth, King's Lynn, and the divisions of Norfolk. The following questions were addressed to each candidate: (1) Are you prepared to oppose the extension to the provinces of the system of compulsory registration of property which is now being tried in London, at any rate until its efficiency has been satisfactorily proved by a full public inquiry? (2) Are you in favour of the compulsory registration system now in force in London being suspended, leaving owners of property free to register or not, as they find most to their advantage? The answers received from elected candidates were as follows: Mr. A. Fell, Mr. L. J. Tillett, and Lord Wodehouse reply "Yes" to each question; Mr. George White replies to No. 1 only, "Yes, until its efficiency has been proved by public inquiry"; Mr. R. J. Price replies, "I think an inquiry into the working of the system in London should precede any extension"; Mr. G. H. Roberts replies, "Generally speaking I favour registration, although appreciating the suggestion that inquiry should be made on the results of the system now in practice"; Mr. R. Winfrey replies, "I am on the whole inclined to favour the compulsory system of registration."

Public Trustee.—During the closing session of the last Parliament a determined effort was made to establish a public trustee and executor; the Bill introduced for the purpose passed a second reading without discussion, and was referred to the Standing Committee on Law, but was ultimately abandoned. Solicitors should make clear to their clients that the Judicial Trustees Act of 1896 supplies all that can be reasonably required. The Bill introduced was of a far-reaching character, and proposed an official or public trustee who would not only be the custodian but the administrator of trust property, leading to increased trouble, expense, and delay in the administration of the estates of deceased persons, and seriously interfering with the legitimate work of the profession.

Prevention of Corruption Bill.—This Bill was re-introduced into Parliament last session, and, although dropped, a fresh Bill will be introduced during the present session. The Bill must be watched with a view to excluding from it the objectionable features of the preceding Bills.

Law Students' Journal.

Law Students' Societies.

LAW STUDENTS' DEBATING SOCIETY.—March 6.—Chairman, Mr. P. E. Henderson.—The subject for debate was: "That the case of *Rushmer v. Polson and Alfieri* (75 L. T., 1906, p. 79) was wrongly decided." Mr. C. M. Knowles opened in the affirmative, Mr. T. Harston seconded in the affirmative; Mr. Sparrow opened in the negative, Mr. Krause seconded in the negative. The following members also spoke: Messrs. Pleadwell, William G. Weller, G. C. Blagden, J. E. C. Adams, Hugh Rendell, A. C. Dowding, Waterson. The motion was lost by six votes.

Companies.

Law Accident Insurance Society.

ANNUAL MEETING.

The thirteenth annual general meeting of the shareholders of the Law Accident Insurance Society was held on Tuesday at the offices, 215, Strand, under the presidency of Mr. Richard Pennington.

The CHAIRMAN, in moving the adoption of the report, said the net premium income amounted to £340,744, which shewed an increase of £22,775 over the previous year. That increase had been obtained at an increase of only £1,276 in the management expenses. The expenses and commission ratio had fallen from 31·5 per cent. during 1904 to 30·4 per cent. during 1905. The average ratio of management expenses and commission to income among accident and fire insurance companies was something near 35 per cent. As views may differ on the subject of the increase of the premium income, he desired to say that the premium income in the department of employers' liability has only increased by £1,000, and that their liability in this department as against the premium income had been brought within satisfactory limits—that is to say, the rating had been substantially increased, in some cases up to as much as 100 per cent., and as the premium income had remained practically stationary, it might be taken for granted that the amount at risk under the policies was, in inverse ratio, reduced in proportion to the increase in the rating. The item in the accounts about which he was aware some explanation would be expected was that of "Properties taken over pending realization," which had increased from £75,776 to £85,463 12s. 7d., particularly as considerable stress was laid by the chairman of the Law Guarantee and Trust Society (Limited), at their recent annual meeting, on the fact that the corresponding item in that society's balance-sheet had decreased sensibly during the past year. It does not necessarily follow that the two societies deal with the item in the same manner, or that we should participate in the relief which the Law Guarantee and Trust Society (Limited) may derive the benefit of. When a claim has been made upon this society, which does not, and will not, in our opinion, involve a loss, the amount is carried to "Properties taken over pending realization," and the amount is left there until the claim is finally disposed of; meanwhile a charge is made in the revenue account of a substantial sum which is carried to the balance-sheet as a reserve against possible loss. Of course, where a loss is anticipated the amount is at once charged in the revenue account to claims

It is a list for a jury case left under This action. At the Staff there on Channel therefore Amazies, against line, to cross-careful put to wary gone, The Standard his Ma Mr. Ju the ign times ordina think in Upon not ill voice so, ge do we head Life o grace as a t mind finally conse

undertook to Lynn, and the less to each of the provinces is now being satisfactorily concluded, leaving most to their care as follows: "Yes" to each. Yes, until its Price replies. London should generally speaking that inquiry be"; Mr. E. H. Ellis-Davies seconded the motion, which was carried unanimously.

The Property Mart.

Sales of the Ensuing Week.

March 14.—Messrs. THURGOOD & MARTIN, at the Mart, at 2:—By order of the Executors of Chas. Bowyer, deceased.—Oxford-street and Shepherd's Bush: Leasehold House, with vacant possession, and a Leasehold Profit Rental of £140 for a short term; also Two Small Freehold Houses. Solicitors, Messrs. Field, Roscoe, & Co., London. By order of the Executors of W. Sawyer, deceased.—Croydon and Norwood: Freehold Dwelling-house and Cottages. Solicitors, Messrs. F. C. Mathews & Co., London. (See advertisements, this week, p. v.)

March 14.—Messrs. TROLLOPE, at the Mart, at 2:—Mayfair, 18, Charles-street, and stables (as now in the occupation of Sir Humphrey F. de Trafford, Bart.), within a short distance of the Royal Palaces, Houses of Parliament, Government Offices, clubs, theatres, &c. Solicitors, Messrs. Taylor, Kirkman, & Co., Manchester. (See advertisement, this week, p. v.)

March 15.—Messrs. THURGOOD & MARTIN, at the Gildredge Hotel, Eastbourne, at 3:—Eastbourne, Gilbert Estate: Sale of Six Freehold Houses on the Sea Front and of Freehold Ground-rents amounting to £158 per annum. Solicitors, Messrs. Drake & Lee, Lewes. (See advertisement, this week, p. v.)

March 15.—Messrs. H. E. FOSTER & CRANFIELD, at the Mart, at 2:—

REVERSIIONS:

To One-half of a Trust Fund, value £1,744 7s. 4d.; lady aged 79. Solicitors, Messrs. Alpe & Ward, London.
To One-fifteenth of a Trust Fund, value £14,057; lady aged 64. Solicitors, Messrs. Gibbons, Usher, & Co., and Messrs. Lumley & Lumley, London.
To One-fourth of a Trust Fund, value £2,840; lady aged 76. Solicitor, F. M. Collings, Esq., London.
To £500; lady aged 63. Solicitors, Messrs. Lawrence, Graham, & Co., London.
To Four-tenths of One-third of a Residuary Estate, value £123,000; gentleman aged 75. Solicitor, T. F. Adahhead, Esq., London.
To Seven-eighths of £2,515 Taff Vale Ordinary Stock and £1,019 19s. 11d. Consols, lady aged 71; also to One-fifth of a Trust Fund, value £4,000, lady aged 75; also to One-third of £1,000 Consols, lady aged 84; also to One-half of £1,775, lady aged 64. Solicitor, D. S. Watson, Esq., Bridgewater.
To a Trust Fund, value £9,350; lady aged 48. Solicitor, J. Bell, Esq., Kingston-on-Thames.
To a Trust Fund, value £2,000; lady aged 60. Solicitors, Messrs. Holbeche & Addenbrooke, Sutton Coldfield.
To a Trust Fund, value £21,160; gentleman aged 50. Solicitors, Messrs. C. W. Brown & Aylen, London.
To Two-fifths of Freeholds and Leaseholds at Finchley, producing £310 per annum; lady aged 80 and gentleman aged 42. Solicitor, J. Tharp Plowman, Esq., London.
To One-sixty-fourth of a Trust Fund, value £145,000; lady aged 63. Solicitors, Messrs. Lawrence, Graham, & Co., London.

LEASEHOLD GROUND-RENT of £10 per annum; also Capital Redemption Policy for £300. Solicitors, Messrs. Jaques & Co., London.

PATENT RIGHTS for Automatic Railway Signalling. Solicitors, Messrs. Lumley & Lumley, London.

POLICIES for £1,400, £400.

(See advertisements, this week, back page.)

To EXECUTORS.—VALUATIONS FOR PROBATE.—Messrs. Watherston & Son, Jewellers, Goldsmiths, and Silversmiths to H.M. The King, 6, Vigo-street (leading from Regent-street to Burlington-gardens and Bond-street), London, W., Value, Purchase, or Arrange Collections of Plate or Jewels for Family Distribution, late of Pall Mall East, adjoining the National Gallery.—[ADVT.]

FIXED INCOMES.—Houses and Residential Flats can now be Furnished on a new System of Deferred Payments especially adapted for those with fixed incomes who do not wish to disturb investments. Selection from the largest stock in the World. Everything legibly marked in plain figures. Maple & Co. (Limited), Tottenham Court-road, London, W.—[ADVT.]

Bankruptcy Notices.

London Gazette.—FRIDAY, March 2.

RECEIVING ORDERS.

AMIDES, ALEXANDER, High Holborn, High Court Pet Feb 12 Ord Feb 27
AYRES, JAMES, Penygraig, Glam., Beer Seller Pontypridd Pet Feb 26 Ord Feb 26
BAIGENT, GEORGE JAMES, Haddenham, Bucks, Licensed Victualler Aylesbury Pet Feb 26 Ord Feb 28
BANKS, STEPHEN, Challock, Kent, Farmer Canterbury Pet Feb 25 Ord Feb 25
BARKER, HAROLD ALBERT LOMAX, Esholt, nr Shipley, Yorks, Fellmonger Leeds Pet Nov 29 Ord Feb 27
BENTON, GEORGE AARON, Sharswell, Staffs, Electrical Engineer Wolverhampton Pet Feb 14 Ord Feb 28
BISHOP, FRANK, Basildon, Essex, Coal Merchant Newport, Mon. Pet Feb 26 Ord Feb 28
BISTY, NELLIE, Folkestone, General Draper Canterbury Pet Feb 27 Ord Feb 27
COLE, FREDERICK, Tewkesbury, Boatman Cheltenham Pet Feb 26 Ord Feb 26
COOPER, FRASER ARMSTRONG, Leicester, Stationer Leicester Pet Feb 26 Ord Feb 26
DAVIES, THOMAS, Wainleyshaw, Gwawreysgurwen, Glam., Blacksmith Abercrown Pet Feb 26 Ord Feb 26
DAVISON, ERNEST, Brighton, Draper Brighton Pet Feb 27 Ord Feb 27
DUNDAS, IVE, Church st., Chelsea, High Court Pet Feb 26 Ord Feb 26
ELLARD, WILLIAM, New Brigate, Leeds, Photographer Leeds Pet Feb 26 Ord Feb 26
ENGELANDER & SEARLE, A, Mars st., Hackney, Bamboo Furniture Manufacturers High Court Pet Feb 16 Ord Feb 21
FLAUN, HERBERT ARTHUR, Gower st., Merchant High Court Pet Feb 22 Ord Feb 26

GRETTON, ERNEST EDWARD, South Benfleet, Essex, Commercial Clerk Chelmsford Pet Feb 27 Ord Feb 27
HARVEY, MARY, Emery Down, Lyndhurst, Grosser Southampton Pet Feb 28 Ord Feb 28
HOSKEN, CHARLES HENRY, and SYDNEY HERBERT HOSKEN, Richmond, Builders Wandsworth Pet Feb 27 Ord Feb 27
JONES, MATTHEW EDWARD, Westbourne rd., Forest Hill High Court Pet Sept 27 Ord Feb 28
JONES, WILLIAM HENRY JAMES, Wednesbury Walsall Pet Feb 27 Ord Feb 27
LAMBRECK, WILLIAM EDWIN, Brynhyfryd, Swansea Swansea Pet Feb 26 Ord Feb 26
LEE, JAMES, Tyldesley, Lancs, Grocer Bolton Pet Feb 27 Ord Feb 27
LIVETT, N, Peterborough, Dressmaker Peterborough Pet Feb 12 Ord Feb 26
MARSH, WILLIAM, Blackburn, Tailor Blackburn Pet Feb 26 Ord Feb 26
MAYO, R. E., Helix gdns, Brixton Hill, Builder High Court Pet Oct 7 Ord Feb 24
MERRCHAUM, ABRAHAM, Manchester, Rainproof Garment Manufacturer Manchester Pet Feb 19 Ord Feb 26
METZ, ISRAEL, Commercial rd., Builders' Merchant High Court Pet Feb 8 Ord Feb 26
MOULSON, JAMES OGILVIE, Bradford, Chemist Bradford Pet Feb 26 Ord Feb 26
OLLIS, THOMAS HENRY, Crewe, Millwright Crewe Pet Feb 27 Ord Feb 27
PATERSON, JOHN, West Hartlepool, Master Mariner Sunderland Pet Feb 27 Ord Feb 27
PIPPS, EDWARD CHARLES, Lowestoft, Builder Gt Yarmouth Pet Feb 26 Ord Feb 26
PREECE, ANDREW DUNCAN, Craven rd., Paddington, Jobmaster High Court Pet Jan 4 Ord Feb 28
ROBERTS, WILLIAM, Southsea, nr Wrexham, Denbigh, Collier Wrexham Pet Feb 26 Ord Feb 26
ROBINSON, CHARLES WILSON, Tenbury, Worcester, Beerhouse Keeper Kidderminster Pet Feb 24 Ord Feb 24

RUSHFORTH, MATTHEW, Bingley, Yorks Bradford Pet Feb 26 Ord Feb 26
SHARABATT, JOSEPH HENRY, and JOHN HARTLETT, Bedworth, Warwick Builders Coventry Pet Feb 23 Ord Feb 23
SMITHS, CHARLES, WILLIAM SMITH, Farmers, and NOEL SMITH, Farm Baillif Madeley Pet Feb 16 Ord Feb 16
SMITH, FREDERICK, Southsea, Hants, Stationer Portsmouth Pet Feb 26 Ord Feb 26
SPRINGFIELD, STEPHEN, Faversham, Grocer Canterbury Pet Feb 26 Ord Feb 26
STANBROUGH, HENRY EDWARD, Sternhold av., Streatham Hill, Wandsworth Pet Feb 26 Ord Feb 26
STEPHENS, WILLIAM, Llwynypia, Glam., Collier Pontypridd Pet Feb 26 Ord Feb 26
THOMAS, ERNS, Cwmclydach, Glam., Underground Haulier Pontypridd Pet Feb 27 Ord Feb 27
TOWNSEND, MATTHEW, Brackenhield, Derby, Farmer Derby Pet Feb 26 Ord Feb 26
TRICK, FERDOWILL, WILLIAM CLEMENTS, Salisbury House, London Wall, Chemist High Court Pet Feb 27 Ord Feb 27
TWIGG, TOM, Newton Burgoland, Leicester, Grocer Burton on Trent Pet Feb 26 Ord Feb 26
WARREN BROTHERS, High st., Platstow High Court Pet Feb 5 Ord Feb 26
WHITECOMBE-BROWN, WILLIAM HENRY, Westcliff on Sea, Essex, Doctor Chelmsford Pet Jan 31 Ord Feb 26

FIRST MEETINGS.

AMIDES, ALEXANDER, High Holborn March 12 at 2.30 Bankruptcy hdgs, Carey st.
AHORN, THOMAS CHARLES, Dowlais, Glam., General Dealer March 18 at 2.30 High st., Mortby Tydfil
AYRES, JAMES, Penygraig, Glam., Beer Seller March 14 at 12.30 High st., Mortby Tydfil
BARKER, HAROLD ALBERT LOMAX, Esholt, nr Shipley, Yorks, Fellmonger March 13 at 11.30 Off Rev. 22 Park row, Leeds

Winding-up Notices.

London Gazette.—FRIDAY, March 2.

JOINT STOCK COMPANIES.

LIMITED IN CHANCERY.

AFRICAN FARMS, LIMITED—Pet for winding up will be heard March 13. Bull & Denys, Old Jewry, solors for petners. Notice of appearing must reach the above-named not later than 6 o'clock in the afternoon of March 12

BAROLAT, HOBSON, & CO., LIMITED—Pet for winding up, presented Feb 27, directed to be heard at Manchester March 12. Steels & Steele, Burnley, for Jackson, Bedford nov. solor for petners. Notice of appearing must reach the above-named not later than 6 o'clock in the afternoon of March 10

CRYSTAL PALACE DISTRICT ELECTRIC SUPPLY CO., LIMITED—Creditors are required, on or before April 12, to send in their names and addresses, and the particulars of their debts or claims, to James Gray, Dashwood House, New Broad st., Voules & Welch, Bishopsgate st. Within, solors for liquidator

DREW & CO., LIMITED—Creditors are required, on or before April 10, to send their names and addresses, and particulars of their debts or claims, to William C. Brooks, Clement's in., Gush & Co., Finsbury circus, solors for liquidator

"KNIGHT OF ST. GEORGE" TUG CO., LIMITED—Creditors are required, on or before April 10, to send their names and addresses, and the particulars of their debts or claims, to Edward Prendiville, 3, New Quay, Liverpool. Miller & Son, solors for liquidator

MALLEABLE STEEL CASTINGS CO., LIMITED—Creditors are required, on or before March 10, to send their names and addresses, and the particulars of their debts or claims, to Vandrey & Co., Manchester, solors for receiver

METALS DEPOSITION AND RECOVERY CO., LIMITED—Creditors are required, on or before April 18, to send their names and addresses, and the particulars of their debts or claims, to Mr. A. O. Williams, 62, London wall

SIMONSEN'S, LIMITED—Creditors are required, on or before April 16, to send their names and addresses, and the particulars of their debts or claims, to W E Vellacott, 1, Finsbury circus, Godden & Co., Old Jewry, solors for liquidator

COUNTY PALATINE OF LANCASTER.

B COHEN, LIMITED—Pet for winding up, presented Feb 27, directed to be heard at the Asize Courts, Manchester, March 12, at 10.30 Sampson & Price, Manchester, for Borland & Co., Glasgow, solors for petner. Notice of appearing must reach the above-named not later than 2 o'clock in the afternoon of March 10

London Gazette.—TUESDAY, March 6.

JOINT STOCK COMPANIES.

LIMITED IN CHANCERY.

CONCENTRATED BEEF CO., LIMITED—Creditors are required, on or before March 20, to send their names and addresses, and the particulars of their debts or claims, to George Sidebotham, 18, St Swithin's in., Gresham & Co., Old Jewry chamber, adm. for the liquidators

E UNDERWOOD & SON, LIMITED—Pet for winding up, presented March 3, directed to be heard March 20, Toomer, Walbrook, solor for petner. Notice of appearing must reach the above-named not later than 6 o'clock in the afternoon of March 19

LONDON AND MANCHESTER PLATE GLASS CO., LIMITED—Creditors are required, on or before March 15, to send their names and addresses, and the particulars of their debts or claims, to William Hawkins, at the office of Messrs. Alfred Tongue & Co., 86, King st., Manchester, solors for liquidator

SPITALFIELDS SILK CO., LIMITED—Creditors are required, on or before March 31, to send their names and addresses, and the particulars of their debts or claims, to Sydney Barnes Bryant, 10, Philipot in., Everett, Chancery ln., solor for liquidator

WILLIAMS GOULDING & CO., LIMITED—Pet for winding up, presented March 1, directed to be heard March 20, Munns & Longden, Old Jewry, solors for petners. Notice of appearing must reach the above-named not later than 6 o'clock in the afternoon of March 18

Creditors' Notices.

Under Estates in Chancery.

LAST DAY OF CLAIM.

London Gazette.—FRIDAY, March 2.

COLLINS, ELIZABETH, Liverpool April 7 Collins v Fox, Registrar, Liverpool Smith, Liverpool
COX, SAMUEL RICHARDSON, Derby, Wine Merchant April 12 Cox v Cox, Swinfen Eddy, Keen, Carter in, Doctors Commons

London Gazette.—TUESDAY, March 6.

MILNER, ARTHUR SAMUEL, Mayor of Trinidad, West Indies May 31 Milner v Hoel, Kekewich, J Matthews, Cannon & Co.

PARSLEY, 10 at 8.15
BOYD-CARLISLE, 1.15
EARL OF BIRKBRIDGE, 2 The
CHARLES, 11 Gold, Finsbury
COOKE, 12 C. M.
COWDY, J. MAC
DAYMOND, 10 at 8.15
DIXON, 1 MARCH
DUGDALE, 1 MAY
DUNDAS, 1 APRIL
ELLAND, 1 MAY
EVANS, 11 JUNE
FARLOWE, 12 JULY
FIELDING, 1 AUGUST
FOLLIOTT, 1 SEPTEMBER
FLEMING, 1 OCTOBER
GARIBOLDI, 1 NOVEMBER
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SCHMITZ, THEODORE CASSIUS, South Norwood hill High Court Pet Feb 2 Ord Feb 26
 SHARATT, JOSEPH HENRY, and JOHN HARTLETT, Bedworth, Warwick Builders Coventry Pet Feb 23 Ord Feb 27
 SPRINGSTON, STEPHEN, Faversham, Kent, Grocer Canterbury Pet Feb 26 Ord Feb 26
 STANBOURNE, HENRY EDWARD, Sternhold av, Streatham hill Wandsworth Pet Feb 26 Ord Feb 26
 STEPHENS, WILLIAM, Llwynypis, Glam, Collier Pontypridd Pet Feb 26 Ord Feb 26
 STONE, EDGAR, Newcastle under Lyme, Staffs Hanley Pet Jan 30 Ord Feb 28
 THOMAS, RHEA, Cwmyndach, Glam, Underground Haulier Pontypridd Pet Feb 27 Ord Feb 27
 TOWNSBROW, MATTHEW, Brackenfield, Derby, Farmer Derby Pet Feb 26 Ord Feb 28
 TRICK, FREDERIC WILLIAM CLEMENT, Salisbury House, London wall, Chemist High Court Pet Feb 27 Ord Feb 27
 TWIGG, TOM, Newton Burgoland, Leicester, Grocer Burton on Trent Pet Feb 28 Ord Feb 28
 Amended notice substituted for that published in the London Gazette of Feb 23:

MOTT, HARRY, West Cowes, I of W Newport Pet Feb 5 Ord Feb 17

London Gazette.—TUESDAY, March 6.

RECEIVING ORDERS.

BEWICK, JOHN, Blyth, Northumberland, Fruiterer Newcastle on Tyne Pet March 1 Ord March 1
 BLISS, ROLAND, Moseley, Birmingham, Stationer Birmingham Pet March 1 Ord March 1
 BOORMAN, JOHN HENRY, Chatham, Dairymen Rochester Pet March 1 Ord March 1
 BOOTH, JAMES, Mansfield Woodhouse, Notts, Coal Miner Nottingham Pet March 2 Ord March 2
 BROWN, ERNEST EDWARD, Wivenhoe, Essex, Grocer Colchester Pet March 1 Ord March 1
 CALLOW, FRANCIS JOHN, Clifton, Bristol, Baker Bristol Pet March 2 Ord March 2
 CHAPMAN, DAVID, Withington, Manchester, Commission Agent Manchester Pet March 2 Ord March 2
 COATSWORTH, JOHN, Bishop Auckland, Durham, Butcher Durham Pet March 3 Ord March 3
 COLVILLE, SAMUEL, Porth, Glam, Colliery Engine Driver Pontypridd Pet March 2 Ord March 2
 CORNELL, SAMUEL, Stratford, Baker High Court Pet March 1 Ord March 1
 COULSON, FREDERICK JOHN, Stockton on Tees, Cartwright Stockton on Tees Pet March 2 Ord March 2
 DAVIES, JOHN ENOCH, Swansea, Grocer's Assistant Swansea Pet March 3 Ord March 3
 DENNIS, DANIEL, Ventnor, I of W, Blacksmith Ryde Pet Feb 28 Ord Feb 28
 DENTY, MARY, Easingford, Norfolk, Licensed Victualler Norwich Pet March 1 Ord March 1
 FLOWER, ALEXANDER JEPSON, Swalcliffe, nr Banbury, Oxford High Court Pet June 26 Ord Feb 16
 FOSTER, HENRY GODWIN, New Broad st, Timber Merchant High Court Pet Jan 11 Ord March 2
 GATES, JOHN, Claypath, Durham, Licensed Victualler Durham Pet Feb 14 Ord March 2
 HAMILTON, WILLIAM FREDERICK, North Bovey, nr Newton Abbott, Devon Exeter Pet Feb 26 Ord Feb 26
 HINDE, WILLIAM ALBERT, Tarleton, Lancs, Cycle Agent Liverpool Pet March 2 Pet March 2
 HOWARTH & CO, R. T., Aldermanbury, Warehousemen High Court Pet Feb 2 Ord March 2
 HOWE, JAMES, Pontywaith, Glam, Mason Pontypridd Pet March 2 Ord March 2
 HUNT, SAMUEL RADLEY, and ERNEST LEIGH HUNT, Liverpool, Provision Merchants Liverpool Pet March 3 Ord March 3

HUNTER, ROBERT, Union st, Old Broad st, Accountant High Court Pet Jan 8 Ord Feb 28
 JAFFA, H. B., Liverpool, Sack Merchant Liverpool Pet Feb 16 Ord March 1
 JOHNSON, FRANCIS WOODS, Middlewich, Solicitor Crewe Pet Feb 8 Ord Feb 28
 JONES, THOMAS, Swansea, Painter Swansea Pet March 1 Ord March 1
 KNIGHT, THOMAS WALTER, Penzance, Tailor's Cutter Truro Pet March 1 Ord March 1
 LEE, WILLIAM, and JOSEPH LEE, Halifax, Hay Merchants Pet March 2 Ord March 2

MAYZED, HARRY, Howth Green, Milton next Sittingbourne, Kent, Farmer Rochester Pet March 3 Ord March 3
 NEW, EDWARD CHARLES, Lechlade, Glos, General Dealer Swindon Pet March 2 Ord March 2
 NICHOLLS, CHARLES EDMUND, Barlow Grange, Derby, Builder Chesterfield Pet March 3 Ord March 3
 PADDOCK, HARRY, Eastbourne, Cycle Dealer Eastbourne Pet March 1
 POLLARD, ALBERT HARRY, Normanton, Schooner Wakefield Pet March 3 Ord March 3
 PRICE, JOHN, and ROBERT JOHN REES, Swansea, Painters Swansea Pet March 1 Ord March 1
 RAPE, WILLIAM, Brompton, nr Northallerton, Railway Labourer Northallerton Pet Feb 28 Ord Feb 28
 RAWLES, JOSEPH JAMES, Candahead rd, Battersea, Motor Driver Wandsworth Pet March 3 Ord March 3
 RICHARDS, DAVID, Ammanford, Carmarthen, Collier Carmarthen Pet March 3 Ord March 3
 TALBOT, GEORGE, Fairland rd, Matthew Park, Romford rd, Licensed Victualler High Court Pet Feb 14 Ord March 1
 THERWISSEN, DESIRÉ, Exeter, Hairdresser Exeter Pet March 2 Ord March 2

WEEKES, T., Stonebridge Park, Willesden, Slave Merchant High Court Pet Feb 9 Ord March 1
 WIGGIN, BENJAMIN, Aston, Birmingham, Musical Instrument Dealer Birmingham Pet March 2 Ord March 2
 WILLIAMS, MOSES, Glander, Lledrod, Cardigan, Farmer Aberystwyth Pet March 1 Ord March 1
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